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**APR 01 2004**

**OFFICE OF PETITIONS**

In re Application of :  
William J. O'Connell, Michael B. Calhoun :  
and Jack Harowitz :  
Application No. 09/954,677 :  
Filed: September 15, 2001 :  
For: ENVIRONMENTAL SHIELD FOR :  
A TRUCK MOUNTED CONCRETE :  
MIXER :

DECISION REFUSING STATUS  
UNDER 37 CFR 1.47(a)

This is in response to the petition under 37 CFR 1.47(a) filed March 16, 2004.

A review of the record discloses that the above-identified application was filed on September 16, 2001 without an executed oath or declaration and naming William J. O'Connell, Michael B. Calhoun and Jack Harowitz as joint inventors. On October 16, 2001, a "Notice to File Missing Parts of Application" was mailed requiring an executed oath or declaration, filing fee and requisite surcharge. Since no response was filed, a Notice of Abandonment was mailed on November 10, 2003. In response, on January 9, 2004, applicant filed a petition to revive under 37 CFR 1.137(b), the requisite filing fee and surcharge and a partially executed declaration. The petition was dismissed in a decision mailed January 27, 2004. On March 16, 2004, the present petition under 37 CFR 1.47(a) was filed.

The petition is DISMISSED.

A grantable petition under 37 CFR 1.47(a) requires: (1) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings); (2) an acceptable oath or declaration in compliance with 35 U.S.C. 115 and 116; (3) the petition fee; and (4) a statement of the last known address of the non-signing inventor. Applicant lacks items (1) set forth above.

Rule 47 applicant is given TWO MONTHS from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(a)," and should only address the deficiencies

noted below, except that the reply may include an oath or declaration executed by the non-signing inventor. Any extensions of time will be governed by 37 CFR 1.136(a).

As to item (1) applicant has demonstrated that Mr. O'Connell has received <sup>e</sup>that application papers and refused to sign. However, the petition is defective as it relates to Mr. Harowitz, who purportedly cannot be reached. Rule 47 applicant has simply stated that inquiries were made regarding Mr. Harowitz' whereabouts and calls were made, for which there were no answers. Applicant does not state that a copy of the application papers was sent to the last known address of Mr. Harowitz. Accordingly, a copy of the application papers should be sent to the last known address of Mr. Harowitz with a request that he sign the declaration for the patent application. A forwarding address should be requested. If the papers are returned, and other attempts to locate the inventor, e.g. through e-mail or the telephone continue to fail, then applicant will have established that the inventor cannot be reached.

Further correspondence with respect to this matter should be addressed as follows:

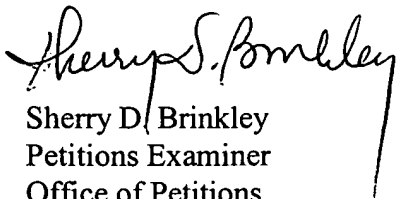
By Mail:                      Mail Stop PETITION  
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By Hand:                     2011 South Clark Place  
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                                    Arlington, VA 22202

**The centralized facsimile number is (703) 872-9306.**

The decision on the petition to revive under 37 CFR 1.137(b) will be held in abeyance pending timely resolution of the 37 CFR 1.47(a) matter.

Any questions concerning this matter may be directed to the undersigned at (703) 305-9220.



Sherry D. Brinkley  
Petitions Examiner  
Office of Petitions  
Office of the Deputy Commissioner  
For Patent Examination Policy